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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI

O. A. No. 1044 of 1993

New Delhi, this the 7th day of April, 1994.

Hon'ble Mr B.N.Dhoundiyal, Member(A)

Shri E. S. Samuel Mohanty
Ex Member Secretary, Railway
Recruitment Board, Bhubneshwar
R/O S-44, School Block, Shakarpur
Delhi. Applicant.
(through Mr S.K. Sawhney, Advocate)
vs.

1. Union of India through
General Manager
South Eastern Railway
Garden Reach, Calcutta.
2. Financial Advisor & Chief Accounts Officer,
South Eastern Railway
Garden Reach, Calcutta. Respondents.
(through Mr H.K. Gangwani, Advocate).

Order(oral)
(delivered by Mr B.N.Dhoundiyal, Member(A)

The applicant, E. S. Mohanty, while working as Member Secretary in the Railway Recruitment Board, Bhubneshwar submitted an application for voluntary retirement on 25.2.1985. The request was rejected by the Railway Board but the second request was rejected only in 1988. A number of reliefs, like treating him as on pension from the date of expiry of notice, i.e. 25.5.1985 and payment of pension and retirement benefit were claimed by the applicant. However, during the final hearing, it was agreed that the only claim which requires adjudication at this stage is whether the applicant is entitled to interest on the delayed payment of provisional pension. The applicant superannuated on 31.12.1988 but the provisional pension was given to him only on 8.6.1992. The delay has been explained by the respondents as

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follows:

" Regarding late payment of provisional pension, it is stated that Shri Mohanty while working as Member Secretary was transferred and posted as D.E.E./Mancheswar vide office order No.747/84 dt 5.11.84 but he did not report to his new post inspite of repeated requests of the Administration and subsequently his whereabouts were not known to the Railway Administration and he was absenting himself unauthorisedly for over 2 years. Finally, he retired from railway service on 31.12.88 on attaining the age of superannuation. He was absent w.e.f.28.12.84 to 31.12.88. This period of absence was required to be regularised, for which the delay occurred for arranging his provision pension. He was on sick list w.e.f.28.12.84 to 31.12.88 which was treated as LHAP from 28.12.84 to 24.5.85, LAP from 25.5.85 to 20.7.85 and LWP from 21.7.85 to 31.12.88. "

2. The reason for not accepting the voluntary retirement and for payment of provision pension is that the departmental inquiry in two cases have been initiated against the applicant on which final decisions were communicated to the applicant on 17.4.1993. The applicant was awarded punishment of cut off ^{by 10%} in pension for 5 years and a cut of Rs.1000/- from the gratuity. There is no doubt that the conduct of the applicant has been erratic and his case was finally decided only in 1993, however, we find no justification for this inordinate delay in payment of provisional pension. Even if the absence of the applicant for the period from 28.12.84 to 31.12.88 had to be regularised it should not have taken almost 3½ years for issue of the sanction. It is not the case of the respondents that they had issued the sanction for the provisional pension, which could not be disbursed, due to the absence of the applicant. Taking into account, the difficulties faced by the respondents

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in regularising the leave periods, I hold that in the interest of justice, interest is payable for for a three year period between 7.6.1989 to 8.6.1992. The respondents are directed to pay interest @ 12% per annum to the applicant, on the delayed amount of provisional pension. The respondents shall implement this judgment expeditiously and preferably within a period of three months from the date of presentation of a certified copy of this order by the applicant before them. There will be no order as to costs.

B.N. Dhondiyal
(B.N.Dhondiyal)
Member(A)

/sds/